



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Harold James Pickerstein, Esq.
Pepe and Hazard LLP
30 Jelliff Lane
Southport, CT 06890

JUL 21 2010

RE: MUR 6162
Michael Sohn

Dear Mr. Pickerstein:

On July 13, 2010, the Federal Election Commission accepted the signed conciliation agreement on your client's behalf in settlement of a violation of 2 U.S.C. § 439a(b), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. *See* 2 U.S.C. § 437g(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Phillip A. Olaya".

Phillip A. Olaya
Attorney

Enclosure
Conciliation Agreement

10044274265

BEFORE THE FEDERAL ELECTION COMMISSION

2010 JUN 16 PM

In the Matter of)

Michael Sohn)

MUR 6162)

OFFICE OF GENERAL
COUNSEL

CONCILIATION AGREEMENT

This matter was initiated by a complaint from former Congressman Christopher Shays to report that a former campaign manager for the Christopher Shays for Congress Committee, Michael Sohn, misappropriated Committee funds that resulted in violations of the Federal Election Campaign Act of 1971, as amended ("FECA" or "the Act"). The Commission found reason to believe that Mr. Sohn knowingly and willfully misappropriated funds from the Committee for his personal use during the 2008 election cycle. See MUR 6162, Factual and Legal Analysis at 2.

NOW, THEREFORE, the Commission and the Respondent, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. The Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. The Respondent enters voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

Applicable Law

1. The Act prohibits any person from converting contributions to a federal candidate for personal use. 2 U.S.C. § 439a(b)(1). "Personal use" means any use of funds in a campaign account of a federal candidate to fulfill a commitment, obligation, or expense of any person that would exist irrespective of the candidate's campaign duties. 11 C.F.R. § 113.1(g). The term "person" includes individuals and committees. 2 U.S.C. § 431(11).

2. The phrase "knowing and willful" indicates that "actions [were] taken with full knowledge of all the facts and a recognition that the action is prohibited by law." 122 Cong. Rec. H 2778 (daily ed. May 3, 1976); *see also Federal Election Comm'n v. Dames & Moore for Cong. Comm.*, 640 F. Supp. 985, 987 (D.N.J. 1986) (distinguishing between "knowing" and "knowing and willful"). A knowing and willful violation may be established "by proof that the defendant acted deliberately and with knowledge" that an action was unlawful. *United States v. Hopkins*, 916 F.2d 207, 214 (5th Cir. 1990).

Factual Background

3. Christopher Shays for Congress Committee ("Committee") was the authorized campaign committee of former Republican House Member Christopher Shays for various successive elections, including the 2008 election cycle.

4. Michael Sohn served as the Committee's campaign manager for three election cycles, from January 2003 through December 2008.

5. As campaign manager, Mr. Sohn was responsible for day-to-day operations that included, among other things, hiring staff; recording contributions,

1 disbursements, and operating expenditures; making deposits into the Committee's
2 accounts; preparing and approving payments to vendors and for operating expenses; and
3 receiving the Committee's financial account statements.

4 6. Mr. Sohn did not have the authority to sign Committee checks.
5 Instead, Committee procedures required Mr. Sohn to submit requests for payment of
6 approved expenditures to the Committee's treasurer, who had sole authority to sign
7 checks.

8 7. Beginning in January 2005, Mr. Sohn misappropriated Committee
9 funds for his personal use. He disbursed unauthorized checks made payable to himself,
10 forged the signature of the Committee's treasurer, and used the Committee's debit card to
11 make unauthorized cash withdrawals and purchases that would have existed irrespective
12 of the candidate's election campaign. From 2005 through 2008, Mr. Sohn
13 misappropriated a total of \$252,424.10 in Committee funds.

14 8. Mr. Sohn used the unauthorized funds for personal expenses that
15 included payments for car repairs, limousines, gambling, hotels, airline tickets, furniture,
16 a charitable contribution, fuel oil, and baseball game tickets.

17 9. In December 2009, a federal grand jury issued a 12-count criminal
18 indictment that charged Mr. Sohn with violations of the FECA, including the conversion
19 of approximately \$250,000 in Committee funds for personal use from 2005 through 2008.
20 *See United States v. Sohn*, No. 3:092CR270(RNC) (D. Conn. filed Dec. 2, 2009).

21 10. In March 2010, Mr. Sohn pled guilty to one count of Conversion of
22 Campaign Contributions in violation of 2 U.S.C. § 439a(b) for wrongfully converting to
23 his personal use approximately \$252,424.10 from 2005 to 2008. The criminal plea

1 agreement requires Mr. Sohn to make restitution to the Shays Committee. Respondent
2 also pled guilty to one count of tax evasion in violation of 26 U.S.C. § 7201.

3 V. Respondent violated 2 U.S.C. § 439a(b) when he knowingly and willfully
4 misappropriated \$252,424.10 in Committee funds for his personal use to pay for personal
5 expenses irrespective of the candidate's campaign.

6 VI. Respondent agrees to take the following actions:

- 7 1. Respondent will provide the Commission with proof of payments
8 he makes for restitution of the \$252,424.10 misappropriated from
9 the Shays Committee as required by his criminal plea agreement.
- 10 2. Respondent will cease and desist from violating 2 U.S.C.
11 § 439a(b).
- 12 3. Respondent is prohibited from working or volunteering on any
13 federal political committee in any capacity that involves the
14 committee's fundraising or finances for a period of 10 years from
15 the effective date of this agreement.

16 VII. In ordinary circumstances, the Commission would seek a civil penalty
17 based on the violations outlined in this agreement. However, the Commission is taking
18 into account the fact that Respondent Michael Sohn, through the submission of financial
19 documentation to the Commission and additional representations, has demonstrated that
20 financial hardship prevents him from paying a civil penalty in this matter. The
21 Commission regards these submissions and representations as material representations.
22 Due to the mitigating circumstances, which includes Respondent's financial condition,
23 the Commission agrees that no civil penalty shall be due. If evidence is uncovered

1 indicating Respondent's financial condition is not as stated, a civil penalty of up to five-
2 hundred-and-five-thousand dollars (\$505,000) shall be immediately due, pursuant to 2
3 U.S.C. § 437g(a)(5)(B).

4 VIII. The Commission, on request of anyone filing a complaint under 2 U.S.C.
5 § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review
6 compliance with this agreement. If the Commission believes that this agreement or any
7 requirement thereof has been violated, it may institute a civil action for relief in the
8 United States District Court for the District of Columbia.

9 IX. This agreement shall become effective as of the date all parties hereto
10 have executed same and the Commission has approved the entire agreement.

11 X. Except as provided in Section VI.1 of this agreement, Respondent shall
12 have no more than 30 days from the date this agreement becomes effective to comply
13 with and implement the requirements contained in this agreement.

14 XI. This Conciliation Agreement constitutes the entire agreement between the
15 parties on the matters raised herein, and no other statement, promise, or agreement, either
16 written or oral, made by either party, that is not contained in this written agreement shall
17 be enforceable.

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Conciliation Agreement
MUR 6162

1 FOR THE COMMISSION:

2 Thomasenia P. Duncan
3 General Counsel
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8 BY: KLR GR
9 ~~Ann Marie Terzaken~~ Kathleen Guith
10 Acting Associate General Counsel
11 for Enforcement
12

7-16-10
Date

13 FOR THE RESPONDENT:

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17
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19 [Signature]
Harold James Pickerstein, Esq.

6/5/16
Date

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